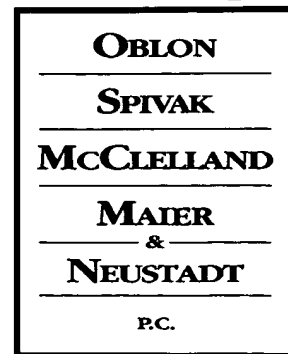




Docket No.: 242614US2

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313



ATTORNEYS AT LAW

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RE: Application Serial No.: 10/658,425

Applicants: Masatoshi ANMA, et al.

Filing Date: September 10, 2003

For: SEMICONDUCTOR DEVICE INCLUDING
ELECTRODE OR THE LIKE HAVING OPENING
CLOSED AND METHOD OF MANUFACTURING
THE SAME

Group Art Unit: 2811

Examiner: S. HU

SIR:

Attached hereto for filing are the following papers:

PROVISIONAL ELECTION

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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DOCKET NO: 242614US2

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
MASATOSHI ANMA, ET AL. : EXAMINER: S. HU
SERIAL NO: 10/658,425 :
FILED: SEPTEMBER 10, 2003 : GROUP ART UNIT: 2811
FOR: SEMICONDUCTOR DEVICE :
INCLUDING ELECTRODE OR THE LIKE
HAVING OPENING CLOSED AND
METHOD OF MANUFACTURING THE
SAME

PROVISIONAL ELECTION

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Election/Restriction between Product and Method requirement dated July 15, 2004, Applicants elect, with traverse, Group 1, Claims 1-6, drawn to a product, classified in class 257, subclass 296+ by the Office Action. In response to the Election/Restriction among Species requirement also dated July 15, 2004, Applicants elect, with traverse, Species 1 of Figs. 2-8 (with or without Fig. 1), as thus characterized by the Examiner, and submit that Claims 1, 2, 7, and 9 are readable thereon.

The restriction requirements asserts that the application contains claims to patentably distinct inventions. However, MPEP § 803 states the following:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

It appears that the field of search for the various species is overlapping, and that the claims of the present application would have to be searched in only a handful of sub-classes.

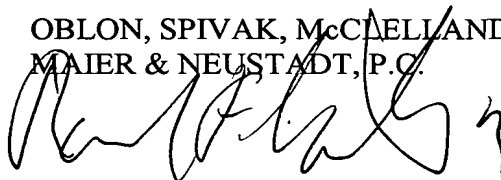
Application No.: 10/658,425
Reply to the Office Action of July 15, 2004

Furthermore, since electronic searching is commonly performed, a search may be made of a large number of, or theoretically all, subclasses without substantial additional effort.

Accordingly, examination on the merits of Claims 1-20 is believed to be in order, and an early and favorable action is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.



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